

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. CARMEN SARIO, DEFENDANT AND APPELLEE. THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. DULCE SARIO, DEFEND...

G. R. Nos. 20754-59. June 30, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In the Court of First distance of Quezon (Guniaca branch) six Informations charging the crime of oral defamation n filed against Carmen Sarto (Criminal Cases Nos. 758 and 764, now G. R. Nos. L-20754 and 20759); Dulce Sario (Criminal Cases No. 759 and 763, now G. R. Nos. 20755 and 20758); Asuncion Requiron (Criminal Case No. 761, now G. R. No. L-10756); and Francisco Sario (criminal Case No. 762, now G. R. No. L-20757) for allegedly having called complainant Ester Peña a "mangkukulam."

Before arraignment the four accused filed a joint motion to quash on the ground that the facts alleged in the informations do not constitute an offense punishable by law. The court granted the motion, so the prosecution appealed to the Court of Appeals (which thereafter certified the cases to us), and now raises the sole question of whether each of the six informations quoted hereunder alleges facts that constitute a punishable offense:

"The undersigned provincial Fiscal accuses CARMEN SARIO of the crime of Grave Oral Defamation, defined and punished under Article 358 of the Revised Penal Code, committed as follows:

"That on or about the 6th day of October 1958, in the municipality of Calauag, Province of Quezon, Philippines and within the jurisdiction of this Honorable court, the abovenamed accused, with intent to dishonor, discredit and place in public contempt and ridicule one ESTER PEÑA, did then and there willfully, unlawfully and feloniously utter the following defamatory words and expressions in the presence of and within the hearing of many people, directed to the said Ester Pefia, to wit:

"AKALAIN MONG MANGKDKULAM PAIA SI ESTER PEÑA. NATIYAK NG HERBOIARYO NA SI ESTER ANG KUMULAM KAY LITA. BOSES NI ESTER ANG NADINIG NA KANYANG 1NAAMING SIYA NGA ANG KUMULAM KAY LITA. NANGAKONG PUPUNTA DITO SA AMTN UPANG HUMINGI NG TAWAD."

"IKAW ANG BAHALA KUNG AYAW MONG MANIWALA. NOONG UNA AY AYAW DIN NAMING MANIWALA SUBALIT NGAYON AY NANINTMALA KAMING TALAGANG TOTOO NA SI ESTER ANG KUMULAM KAY LITA."

"ALAM M0 BANG TATLONG TAO NA ANG KINULAM NI ESTER? NA PAWANG NAMATAY? UNA, AY SI SALVADOR LIM, IKALAWA, SI MRS. ARGENTE AT IKATLO, SI PAULO LABACO. SA PAGTATANONG NOONG HERBOLARYO KAY LITA, BOSES NI ESTER ANG NAGSASALITA AT NANG IANUNGIN KUNG BAKIT PINATAY SI OYANG ANG SAGOT AY NAGSESELOS SIYA SAPAGKA'T ANG GUSTO NI ALING CONSI NA NAPANGASAWA NI MARCIANO AY SI OYANG." (

G. R. No. L-20754)."

"The undersigned Provincial Fiscal accuses DULCE SARIO of the crime of Oral Defamation, defined and punished under Article 358 of the Revised Penal Code, committed as follows:

"That on or about the 6th day of October 1958, In the Municipality of Calauag, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the said Accused, with intent to dishonor, discredit and place in public contempt and ridicule one ESTER PEÑA, did then and there wilfully, unlawfully, and feloniously utter in a loud voice the following insulting defamatory words in the presence of and within the hearing of several persons directed to the said Ester Peña:

"MINANA NI ESTER ANG PANGKUKULAM SA KANYANG AMA AT MARAHIL AY INILIPAT NA NIYA SA KANYANG ANAK KAYA NAMAN ANG BATA AY NAMAMAYAT NA NGAYON." (G. R. No. L-20755)."

"The undersigned Provincial Fiscal accuses ASUNCION REQUIRON of the crime of Oral Defamation, defined and punished under Article 358 of the Revised Penal Code, committed as follows:

"That on or about the 2nd or 3rd day of October 1958, in the municipality of Calauag, Province of Quezon, and within the jurisdiction of this Honorable Court, the said Accused, with intent to dishonor, discredit and place in public contempt and ridicule one ESTER PEÑA, did then and there willfully, and unlawfully, and feloniously utter the following insulting defamatory words in the presence of and within the hearing of other persons, directed to the said Ester Pefia:

"ANG KUMULAM KAY LIHA AY WALANG IBA KUNGDI SI ESTER PEÑA, NATITIYAK NG HERBOIARYO NA SI ESTER NGA ANG KUMULAM KAY LITA. SAYANG AT AAYAW NI LITA NA PAHMA SA MUKHA SAPAGKA'T ANG MAGKAKAROON NG SUGAT AY HINDI SI LITA KUNDI SI ESTER." (G. R. No. L-2056)."

"The undersigned Provincial Fiscal accuses FRANCISCO SARIO of the crime of Oral Defamation, defined and punished under Article 358 of the Revised penal Code, committed as follows:

"That on or about the 8th or 9th day of September 1958 in the municipality of Calauag, province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with Intent to dishonor, discredit and place in public contempt and ridicule one ESTER PEÑA, did then and there willfully, unlawfully and feloniously utter tte following words and expressions in the presence of and within the hearing of many people directed to the said Ester Peña, to wit:

"PARE, MASDAN MO LAMANG AT PAKINGGAN KUNG SI ESTER AY SISIGAW NG ARUY. ALAM MO, SIYA ANG KUMULAM SA ANAK KONG SI LITA. NGAYON, SA PAGGAMOT NG HERBOLARYO, KAPAG SI LITA AY SASAMPALIN O SUSUNTUKIN NG HERBOLARYO, ANG MASASAKTAN AY SI ESTER. PAKINGGAN MO AT SISIGAW SIYA NG ARUY, HINDI NA AKO UULI, PAIGIHIN KO NA." (G. R. No. L-20757)."

"The undersigned Provincial Fiscal accuses DULCE SARIO of the crime of Oral Defamation, defined and punished under Article 358 of the Revised Penal Code, committed as follows:

"That on or about the 14th day of September 1958, in the municipality of Calauag, province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the said Accused with intent to dishonor, discredit and place in public contempt and ridicule one Ester Pefla, did then and there willfully, unlawfully and feloniously utter in a loud voice the following insulting defamatory words in the presence of and within the hearing of several persons directed to the said Ester Peña:

"ANG AMO MO AY ASWANG AT MANGKUKULAM, HINDI MO LAMANG NALALAMAN NA GANYAN ANG IYONG KASAMAHAN. SABIHIN MO SA IYONG AMO NA SI ESTER PEÑA NA SIYA AY ASWANG AT MANGKUKULAM, SIYA ANG KUMULAM KAY LITA." (G. R. No. L-20758)."

"The undersigned Provincial Fiscal accuses CARMEN SARIO of the crime of Oral Defamation, defined and punished under Article 358 of the Revised Penal Code, committed as follows:

"That on or about the 14th day of September 1958, in the municipality of Calauag, province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the said Accused, with intent to dishonor, discredit and place in public contempt and ridicule one Ester Peña, did then and there willfully unlawfully and feloniously utter the following insulting defamatory words and expressions in the presence of and within the hearing of many people directed to the said Ester Peña, to wit:

"TALAGANG ASWANG AT MANGKUKULAM ANG AMO MO. KINULAM NIYA SI LITA MAKAHIL AY KASAPAKAT KA AT IKAW AY BICOL." (G. R. No. L-20759)."

According to Article 353 of the Revised Penal Code, the public and malicious imputation of a crime, or a vice or defect, real or imaginary, or any act, omission, condition, status or circumstances tending to cause the dishonor, discredit or contempt of a natural or juridical person, or to blacken the memory of one who is dead, is libelous.

The issue is whether the statements attributed to appellees may be considered libelous imputations under the said provision. Each of the six informations accuses the defendant therein of having said that the complainant was a "mangkukulam" and/or had practiced "kulam."

The Filipino word "kulam" means "witchcraft, sorcery" (p. 66, National Language - English Vocabulary, published by the Institute of National Language, while "mang" is "a prefix used to express oneself in or assumption of" (p. 109, id.). In other words, a "mangkukulam" is a witch, or one who practices witchcraft. On the other hand, the English term "witch" is defined as "one who practices the black art, or magic; one regarded as possessing supernatural or magical power by compact with an evil spirit, especially with the devil; a sorcerer or sorceress - now applied chiefly or only to women" (p. 2939, Webster's New International Dictionary, second edition); and "witchcraft" is "the practice or art of witches; the practice of black magic; sorcery; enchantments; intercourse with evil spirits; also an instance of such practice" (p. 2939, id.). "Sorcery" is defined as "the use of power gained from the assistance or control of evil spirits, especially for divining; divination by black magic; necromancy; witchcraft" (p. 2400, id.).

The word "mangkukulam" is undoubtedly an epithet of opprobrium. To say that complainant is a witch and sorceress is to impute to her a vice, condition or status that is dishonorable and contemptible since it accuses her of having employed the black art; of possessing supernatural power by reason of a covenant with evil spirits; and of having trafficked with the devil.

According to the lower court, to call another a "mangkukulam" or "witch" is not a malicious imputation because in this modern age nobody believes anymore in witches and witchcraft. The truth of this statement is open to question: the very declarations made by appellees, as alleged in the several informations against them, attest to the contrary. In any event the imputed vice or defect need not be real or existing in order that the imputation may be punishable; an imaginary vice or defect is sufficient (Article 353, Revised Penal Code). And while belief in the existence of witches may have become passe nevertheless the terms "mangkukulam" and "witch" have accepted meanings from which it is clear that they are terms of derision, and for one to be so labelled is to be an object of contempt, even of odium.

The information in G. R. No. L-20754 alleges that appellee Carmen Sario not only called the complainant a

"mangkukulam," but also attributed to her the death through witchcraft of three persons. There is here, therefore, an imputation of a crime. The information in G. R. No. L-20759 charges the same appellee with having also called the complainant an "aswang," which is defined as "an injurious and evil character believed to be capable of assuming various and different forms, especially that of a dog, and harassing usually in the depth of night women who are about to give birth" (p. 37, National Language-English Vocabulary, published by the Institute of National Language). The term, like "mangkukulam," is an offensive and malicious one.

The information in G. R. No. L-20755 accuses Dulce Sario of having stated that the complainant inherited her power of witchcraft from her father and that she had probably bequeathed it to her child, who had become thinner as a consequence. The imputation is derogatory, as it charges the complainant with having taught her child evil practices — an act which is inBooral and highly reprehensible. The Information in G- R. No. L-20758 avers that the same appellee also called Ester Pefla an "aswang."

Likewise derogatory are the imputations averred in the informations subject of G. R. No. L-20756 and G. R. No. L-20757, wherein the accused are charged with having said that it was Ester Pefla who had practiced witchcraft on a certain Lita, who is the daughter of Francisco Sario, accused in the last mentioned case.

Appellees cite the rule that "libel" differs from "slander" in that a publication may be libelous although if spoken orally it would not be slanderous (Cooley, Torts, 2d ed., 240; Odgers, Libel & Slander, 2d ed., 3; Dexter vs. Spear, 7 Fed. Cas. 624, 4 Mason 115). They seem to intimate that the imputations might constitute libel if they had been written, but since they were made orally they do not constitute slander. The conclusion does not follow from the premise. For in themselves the imputations in question fall within the meaning of oral defamation or slander punished by Article 358 of the Revised Penal Code.

The order of dismissal appealed from is set aside, and the cases returned to the lower court for further proceedings. Costs against appellees.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

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